

ITEM	242, 246– 248, 250-252, 254-256 and 258 Canterbury Road, Canterbury and Nos. 1, 3-5, 7-9 and 11-13 Close Street, Canterbury Demolition of existing structures at 242-248 Canterbury Road Canterbury and dedication of land to Council followed by demolition of remaining structures and construction of residential flat buildings and a shop top housing over two basement levels. Section 96 modification to the layout and design of an approved mixed use development, including adjustments to the internal and external layout on all floors of all buildings, and adjustments in size and shape to Council dedicated land on corner of Canterbury Road and Close Street.
FILE	DA-503/2013/A (Panel Ref. 2015SYE152)
ZONING	B2 Local Centre, R4 High Density Residential
DATE OF LODGEMENT	5 August 2015
APPLICANT	Realize Architecture
OWNERS	Metro Storage Pty Ltd
AUTHOR	Development Services (Miné Kocak)

SUMMARY REPORT

Council has received an application for the modification of an approved shop top housing and residential flat building development at the above address and the associated land dedication at the corner of Close Street and Canterbury Road. The proposal maintains the originally approved building height and floor areas, while adjusting the footprint and floor plans of the buildings. The proposed modifications to the development include a re-design of the residential units to change the dwelling combinations, increasing the number of smaller units. The proposal increases the total number of units from 397 to 439. The modified design also increases the width of Close Street and provides an additional pedestrian stair access way from the Cooks River foreshore pedestrian walkway directly to Canterbury Road.

The original development application DA 503/2013 had a capital investment value in excess of \$20 million and in accordance with Schedule 4A(6)(b) of the *Environmental Planning and Assessment Act 1979*, the development was determined by the Joint Regional Planning Panel (Sydney East Region) on 4

June 2014. This proposal involves modifications under Section 96(2) and as such the application is referred to the Sydney South Planning Panel for determination.

The subject site is zoned Part B2 - Local Centre and Part R4 – High Density Residential under Canterbury Local Environmental Plan 2012. The proposed development as proposed to be modified continues to be defined as ‘shop top housing’, and ‘residential flat building’ which are permissible uses under the respective zones, subject to consent.

The proposed modifications have been assessed against the relevant State and local codes and policies and are generally compliant with the requirements, with the exception of numerical compliance with front setbacks, the number of units utilising each ‘access core’, and the design and siting of the communal open space areas in terms of solar access. Issues of non-compliance are discussed in the body of the report.

The development application was publicly exhibited and notified in accordance with the requirements of Canterbury Development Control Plan 2012. A total of 58 submissions and one on-line petition signed by 154 persons have been received. Issues raised in the submissions are discussed in this report.

The Section 96(2) modification application is recommended for approval.

BACKGROUND / HISTORY

The Joint Regional Planning Panel, at its meeting of 4 June 2014 (via electronic communication) resolved to approve the subject Development Application for the demolition of existing structures at 242, 246-248 Canterbury Road, dedication of land for road widening; and demolition of the remainder of structures and construction of a nine storey building containing commercial premises with shop top housing, residential flat buildings over two levels of basement car parking areas. The approval also included the provision of a central open space area linking into the Cooks River foreshore area, subject to conditions, including:

1. *The development must be carried out in accordance with the plans, specifications and details as outlined in the table below, except where amended by the conditions of this consent:*

<i>Prepared By</i>	<i>Drawing Reference</i>	<i>Issue</i>	<i>Date Prepared</i>	<i>Date received by Council</i>
<i>Realize Architecture</i>	<i>DA 006</i>	<i>A</i>	<i>20/11/2013</i>	<i>21/11/2013</i>
<i>Realize Architecture</i>	<i>DA. 100</i>	<i>C</i>	<i>2/4/2014</i>	<i>20/6/2014</i>
<i>Realize Architecture</i>	<i>DA. 101</i>	<i>C</i>	<i>2/4/2014</i>	<i>20/6/2014</i>
<i>Realize Architecture</i>	<i>DA. 102</i>	<i>D</i>	<i>2/4/2014</i>	<i>20/6/2014</i>
<i>Realize</i>	<i>DA. 103</i>	<i>B</i>	<i>2/4/2014</i>	<i>20/6/2014</i>

Architecture				
Realize Architecture	DA. 104	B	2/4/2014	20/6/2014
Realize Architecture	DA. 105	B	2/4/2014	20/6/2014
Realize Architecture	DA. 106	C	2/4/2014	20/6/2014
Realize Architecture	DA. 107	C	2/4/2014	20/6/2014
Realize Architecture	DA. 108	B	2/4/2014	20/6/2014
Realize Architecture	DA. 109	B	2/4/2014	20/6/2014
Realize Architecture	DA. 110	B	2/4/2014	20/6/2014
Realize Architecture	DA. 111	B	2/4/2014	20/6/2014
Realize Architecture	DA. 112	B	2/4/2014	20/6/2014
Realize Architecture	DA. 200	B	2/4/2014	20/6/2014
Realize Architecture	DA. 201	B	2/4/2014	20/6/2014
Realize Architecture	DA. 300	B	2/4/2014	20/6/2014
Realize Architecture	DA. 301	B	2/4/2014	20/6/2014
Realize Architecture	DA. 302	B	2/4/2014	20/6/2014
Realize Architecture	DA 800	B	2/4/2014	10/4/2014

2. *The finishes and materials, including the treatment of external walls, roofing, balcony balustrades, fences, windows and doors must be in accordance with the photomontage and 'Schedule of Finishes', prepared by Realize Architecture, as received by Council on 21 November 2013. The approved design (including an element or detail of that design) or materials, finish or colours of the building must not be changed so as to affect the external appearance of the building without the approval of Council.*
3. *The stormwater system must be constructed in accordance with the plans, specifications and details received by Council on 12th December 2013, drawing numbers: HDA01/P1, HDA02/P1, HDA03/P2, HDA04/P2 & HDA05/P1, prepared by Whipps Wood Consulting, except where amended by the conditions of this consent.*
4. *The landscaping of the site must be undertaken in accordance with the landscape plan, marked drawing numbers 1417-LC01 to 1417-LC05, drawn by Ochre Landscape Architects, and submitted to council on 18th April 2014, except where amended by the conditions of this consent.*

6. *Details of the following design changes must be submitted to either Council or an Accredited Certifier prior to the issuing of a Construction Certificate:*
 - a) *To ensure the provision of adequate storage for residents:*
 - i) *all residential units must be allocated a minimum storage area of 6m³ per one bedroom unit, 8m³ per two bedroom unit, and 10m³ per three bedroom unit either in the basement or within the joinery of the individual units.*
 - ii) *Parking facilities/storage for 63 bicycles is to be provided on-site for the development.*
 - b) *To mitigate potential privacy impacts for residents, all bathroom, en-suite and laundry windows must have translucent glazing.*
17. *Prior to the issue of the Construction Certificate, the following details must be submitted to Council for approval:*
 - 17.1 *The residential section of the development will be allocated 52x 240L rubbish bins (allocated amount of 205 halved due to use of compactor and halved again for twice weekly pickup) and 69x 240L recycling bins (amount halved for twice weekly pickup).*
 - 17.2 *The applicant has proposed the use of 10x 240L garden vegetation bins. These bins are to be stored in the waste bin storage rooms however they are to be presented on the nature strip for collection where they will be collected and returned to the area designated in the amended plans.*
 - 17.3 *Recycling bins are to be stored on each level of the building as per the approved plans.*
 - 17.4 *The bins will be serviced twice weekly (for example, rubbish on Mondays and Thursdays and recycling on Tuesdays and Fridays) from the collection point in Close Street.*
 - 17.5 *The bin hoist will need to have an operating capacity of at least 2000kg.*
 - 17.6 *Unrestricted and unobstructed access to the collection areas must be provided on collection days from 5.00am.*
24. *The driveway grades shall be in accordance with Australian Standard AS 2890.1"Off-street Parking Part 1 - Carparking Facilities". The Certifying Authority must ensure that the building plans and specifications submitted, referenced on and accompanying the issued Constructions Certificate fully satisfy the requirements of this condition. The Certifying Authority must ensure that the building plans and specifications submitted, referenced on and accompanying the issued Constructions Certificate fully satisfy the requirements of this condition.*
28. *The parcel of land to be dedicated to Council along the Cooks River (south western section of the site) must be clear of any structures below or above ground with the exception of public domain elements and the proposed playground that are to be shown on a detailed plan that must be submitted to Council's City Works Division for approval prior to the issue of a Construction Certificate.*
30. *To facilitate the proposed future construction of traffic signals and associated civil works on Canterbury Road at Charles and Close Streets,*

the developer shall dedicate sufficient land as public road at the corner of Close Street and Canterbury Road. The extent of this land dedication as public road shall be in accordance with the attached concept road design plan undertaken by Mott MacDonald (MMD-286061-DR-SK-0016). This land dedication as public road shall be executed, prior to the release of any Construction Certificate for the proposed development and shall be at no cost to RMS or Council.

54. *All development, including walls must be located within the property boundaries of the subject site.*
73. *The Tree protection measures are to be installed prior to the start of any site works and are to be established/supervised and maintained by the Project Arborist.*
93. *The bike/storage area on basement level 1 be “split” into two separate areas – with only one entry/egress to each, minimizing the number of storage areas within each area. Open mesh will be used, and strong lighting and visibility measures.*
116. *Prior to the occupation of the development an acoustic assessment shall be undertaken to ensure that the recommended treatments and controls contained in the Acoustic Assessment Report prepared by Acoustic Logic (Project No. 20130055.1, Dated: 6 November 2013), submitted with DA503/2013, have been incorporated in the final design of the building.*
117. *A total of four hundred and thirty two (432) off-street parking spaces being provided, comprising of:*
- a) One (1) car wash bay being allocated as common property;*
 - b) One accessible car space being allocated to each accessible dwelling;*
 - c) One car space being allocated to each 2 and 3 bedroom dwelling in Buildings A and B;*
 - d) One car space being allocated for each studio, 1 bedroom and 2 bedroom unit in Buildings B and C*
 - e) Two car spaces being allocated for each 3 bedroom unit in Buildings C and D.*
 - f) Sixteen (16) car spaces being allocated for the commercial component of the development.*
- The car spaces must be allocated and marked according to this requirement. If the development is strata subdivided, the car park layout must respect the above allocation. All ‘small car spaces’ must be allocated to studio and/or 1 bedroom apartments.*
118. *The accessible parking spaces must comply with the dimensions of AS 2890.1 and have a firm, level surface with minimal crossfall. These spaces must be marked with the international symbol of disability.*

POLICY IMPACT

This matter has no direct policy implications.

FINANCIAL IMPACT

This matter has no direct financial implications.

RECOMMENDATION

It is recommended that the application be approved subject to the attached conditions of consent.

DA-503/2013/A ASSESSMENT REPORT

SITE & LOCALITY DESCRIPTION

The subject site is located on the southern corner of Canterbury Road and Close Street at Canterbury. The site is known as Lot 1, of DP 963920, Lots 101 and 102 in DP 1023117, Lot 1 of DP 963864, Lot C of DP 110214, Lot B of DP 159980, Lots X and Y of DP 160390, Lots 101 and 102 of DP 791054 and Lot 21 of DP 595332. The site has a frontage of 74.83m to Canterbury Road and 120.4metres to Close Street and a total site area of 7838.5 square metres.



Figure No. 1 – Aerial photograph showing the development site and surrounds

The subject site comprises 11 separate lots with varying topographies which have been altered over time to accommodate a variety of development. The development site generally slopes from the north-eastern side (along Close Street) to the south-western side (toward Cooks River). The fall is approximately 3.5m over a distance of 75 metres. The subject site is located at the southern edge of the Canterbury Town Centre.

The existing development on the sites includes a variety of industrial and warehouse buildings including the Metro Storage building on the western corner of the site facing Canterbury Road with four single storey buildings also along the Canterbury Road frontage of the site. The lots facing Close Street comprise two and three storey industrial buildings with associated car parking and loading/unloading areas.

Immediately to the east of the subject site, on the opposite corner of Canterbury Road and Close Street, is a 4 storey brick residential flat building. An electricity substation building, two industrial buildings and a vacant bowling green site are also located to the east on the opposite side of Close Street.

To the immediate south and south-west of the site is the Cooks River and foreshore areas with bike and pedestrian track.

To the immediate north and north-west is the remainder of the Canterbury Town Centre on the opposite side of Canterbury Road earmarked for commercial and residential development, currently either newly constructed or under construction.

PROPOSED DEVELOPMENT

Council has received an application under Section 96 (2) of the Environmental Planning and Assessment Act, 1979 to modify the subject development consent as follows:

Intersection Design and public improvements

- Modification of first stage of development to include the demolition of structures at 250-252 Canterbury Road, Canterbury (in addition to the 242-244 and 246-248 Canterbury Road, Canterbury) to facilitate the amended intersection design and dedication of land.
- Inclusion of new stairs from the river foreshore to Canterbury Road at the western corner of the site where the pedestrian/bike path intersects with the bridge that is Canterbury Road. It is noted that currently there is insufficient head-heights to get under the bridge.
- Widening of Close Street to enable two-way traffic efficiency.

Basement Levels and Car Parking

- Basement 1: Amendment of driveway access, car parking layout, lift access and storage spaces including a reduction in the number of car parking spaces from 233 to 220 car spaces, and an increase in motorcycle spaces from 6 to 9.
- Basement 2: Amendment of driveway access, car parking layout, lift access and storage spaces including an increase in the number of car parking spaces from 167 to 230 car spaces, and an increase in motorcycle spaces from 13 to 24.
- Ground floor: Alteration to the design of the commercial and residential units and footprint of buildings. The ground level car parking to remain at 30 car spaces and one loading bay.

Building A / Building 1 – Shop Top Housing:

Building A, now known as 'Building 1' in the modified plans was approved as a part five and part nine storey building on the B2 – Local Centre zoned portion of the land, at the western corner of the site. It is the closest part of the building to the river foreshore.

The proposed modifications include a reduction to the floor area of the approved ground floor commercial unit from 420sqm to 363sqm, and amendments to the layout and design of all residential units above including unit combinations. Building A (now known as Building 1 on modifying plans) was approved with 87 residential units. The proposed modifications involve an increase in smaller unit types to increase the number of units to 114 in this building. Please refer to Table 1 (below) for a comparison of unit combinations.

Building B/Building 2 – Shop top Housing:

Building B, now known as 'Building 2' was approved as a nine storey building also on the B2 – Local Centre zoned portion of the site. The building sits on the corner of Close Street and Canterbury Road.

The proposed modifications involve amending the intersection design at this corner and associated changes to the footprint of the building and layout of ground level car park areas. The ground floor commercial component increases in area from 108sqm to 120sqm, while the residential units above change in layout and unit mix and are reduced from 100 units to 89. Please refer to Table 1 for a comparison of unit combinations.

Building C/Building 3 – Residential Flat Building

Building C is a nine storey building located on land zoned R4 – High Density Residential toward the centre of the site with a frontage to Close Street. Main pedestrian access to the building will be from both Close Street and the 'precinct square'; which is a central communal open space area to the south-west of the building that opens up to the Cooks River foreshore. This component of the building is proposed to increase from 104 units to 107 units.

Building D/Building 4 – Residential Flat Building

Building D is a nine storey residential flat building located at the eastern end of the site facing Close Street, and with main pedestrian access from Close Street and the precinct square to the western corner of the building. This portion of the development will increase from 106 units to 129 units.

Approved					Proposed			
	Bldg A	Bldg B	Bldg C	Bldg D	Bldg 1	Bldg 2	Bldg 3	Bldg 4
Studio	21	34	20	20	41	31	21	27
1Bed	36	28	52	45	42	37	43	77
2Bed	30	36	32	38	31	19	43	25
3Bed	0	2	0	3	0	2	0	0
TOTAL	87	100	104	106	114	89	107	129
TOTAL= 397					TOTAL = 439			

Table 1: Approved and proposed unit combinations

SECTION 96(2) ASSESSMENT

The proposed modifications have been assessed pursuant to section 96 of the *Environmental Planning and Assessment Act, 1979*.

- **Section 96(2) of the Environmental Planning and Assessment Act 1979**

Section 96 of the Environmental Planning and Assessment Act, 1979 allows Council to modify development consent if:

- a) *it is satisfied that the development to which the consent as modified relates is substantially the same development,*

Comments

The determination of whether a development remains substantially the same as a result of Section 96 modifications is a matter for the consent authority to determine whether the test of “substantially the same” is satisfied. In this regard, we refer to case law *Vacik Pty Ltd v Penrith City Council*, *North Sydney Council v Michael Standley & Associates Pty Ltd* and *Moto Projects (No.2) Pty Ltd v North Sydney Council* [1999] NSWLEC 280; for guidance on what constitutes “substantially the same development”, where the term “substantially” was taken to mean “essentially or materially or having the same essence”.

The applicant has submitted legal advice supporting the position that the development satisfies this test. Council’s solicitor has reviewed the legal advice and has accepted the findings in this regard. The legal position regarding the matter as submitted by the applicant’s solicitors is as follows:

*In **Moto Projects No 2 Pty Ltd v North Sydney Council** (1999) 106 LGERA 298, Bignold J held that the question of whether a proposed development is “essentially or materially or having the same essence” as the original application is a question of fact, requiring a comparison between the development as approved, and the development as proposed to be modified. Whether a particular modification application satisfies this requirement involves both a qualitative and quantitative assessment of the two developments as a whole....In **Michael Standley & Associates v North Sydney Council** (unreported, 5 December 1997((Standley), Lloyd J described the question as “whether the proposed development, viewed as a totality, is substantially the same”...*

In our opinion the Council can form the view that the Modification Application is substantially the same development to that which was originally approved. The following factors, supported by the case law, have led us to this view:

- *Same use: the Modification application does not alter the use to be carried out on the site...*
- *Same height, FSR and gross floor area: the building height, floor space ratio and gross floor area are the same as approved in the DA;*
- *Minimised amenity impact: the amenity of the existing and additional proposed units is not diminished by the proposed modification;*
- *Same position: the general positioning of the development is unaltered, minimising potential additional impacts on surrounding development;*
- *Minimised traffic impacts: an increased number of car parking spaces is provided to address the increased number of units...*

*In **Standley**, Lloyd J found that a proposed modification to an approved mixed use development was “substantially the same” as the approved. In **Standley**, the gross floor area was increased by 14%...the façade and profile of the building were varied...[and] the mix and internal arrangements of units had also been changed as had the configuration of car parking spaces and ramping....His Honour was influenced by the fact that the proposal did not “look any more bulky than the approved development”... In our opinion the modifications [that are the subject of this application] are more modest than those described in *Standley* providing an even stronger*

basis to conclude that the Modifications Application is “substantially the same”...

The original development application approved on site involves a mixed use development at the Canterbury Road frontage and residential flat buildings at the southern portion. The proposed modifications involve changes to the unit layouts to change the unit mix and associated changes to bring about compliance with the now applicable Apartment Design Guide (ADG) as opposed to the Residential Flat Design Code (RFDC) under SEPP 65 – Design Quality of Apartment Development. The proposed modifications also cater for a design of the intersection of Canterbury Road and Close Street which is earmarked for traffic light signalisation. The development is considered to be essentially and materially the same, where the changes to the use and built form remain essentially and materially the same.

- b) *it has consulted with the relevant Minister, public authority or approval body in respect of a condition imposed as a requirement of a concurrence to the consent or in accordance with the general terms of an approval (as it relates to Integrated Development),*

Comments

The application did not require any consultation with a Minister. The proposal was referred to the NSW Department of Primary Industries – Water who raised no objections subject to the inclusion of a condition which has been included in the recommendations of this report.

- c) *it has notified the Section 96 application (if required under Council’s DCP 2012) and d) has considered any submissions concerning the proposed modification,*

Comments

The application was notified in accordance with Canterbury DCP 2012 and a total of 58 submissions and one on-line petition signed by 154 persons have been received. Issues raised in the submissions are discussed later in this report.

SECTION 79C ASSESSMENT

The proposed development has been assessed pursuant to section 79C of the *Environmental Planning and Assessment Act, 1979*.

State Environmental Planning Policy (State and Regional Development) 2011

The development application originally had a capital investment value in excess of \$20 million and in accordance with Schedule 4A(6)(b) of the *Environmental Planning and Assessment Act 1979*, the development application was determined by the Joint Regional Planning Panel (Sydney East Region). As this application now involves modifications under Section 96(2) to that application, it is referred to the Sydney South Planning Panel for determination.

When determining this development application, the relevant matters listed in Section 79C (1) of the Environmental Planning and Assessment Act, 1979, and Section 96(2) must be considered and in this regard, the following environmental planning instruments, development control plans, codes and policies are relevant:

- Section 96(2) of The Environmental Planning and Assessment Act 1979
- State Environmental Planning Policy (Infrastructure) 2007
- State Environmental Planning Policy 65 – Design Quality of Residential Apartment Development
- State Environmental Planning Policy 55 – Remediation of Land
- State Environmental Planning Policy 2004 – BASIX
- Canterbury Local Environmental Plan 2012
- Canterbury Development Control Plan 2012

State Environmental Planning Policy (Infrastructure) 2007

The original development application was referred to the Roads and Maritime Services (RMS) for their consideration as required under Schedule 3 of the Infrastructure SEPP. Conditions of consent were imposed on the original consent as recommended by the RMS which will be maintained. The RMS has reviewed the proposed modifications and has not raised any objections subject to the plans showing the area for land dedication at the corner of Canterbury Road and Close Street aligning with the Council's intersection design. Council's engineers have confirmed that the plan of subdivision showing the land to be dedicated for the intersection aligns with the intersection design. Condition 116 of the consent has also been modified to reflect the updated Acoustic Report outlining the acoustic treatment to be implemented to ensure compliance with the provisions of the SEPP.

The application has also been reviewed by Ausgrid who own the transmission lines which traverse that section of the site that is to be dedicated to Council on the southern side of the site, adjacent to the river foreshore. They have requested that the playground equipment and public artwork structures that are to be located within the easement area be deleted unless details can be provided demonstrating compliance with the relevant Ausgrid standards. Condition 28 has been modified to reflect this.

State Environmental Planning Policy 55 – Remediation of Land

Clause 7 of SEPP 55 – Remediation of Land requires Council to consider whether the land is contaminated prior to granting consent to carrying out of any development on land. If the land requires remediation to be undertaken to make it suitable for the proposed use, we must be satisfied that the land can be remediated before the land is used for that purpose.

A Stage 1 Preliminary Environmental Assessment Report prepared by Clearsafe, dated 18 October 2013 was submitted with the original application. Conditions of consent were imposed requiring a detailed site contamination to be undertaken and submitted to Council prior to the issue of a Construction Certificate. The conditions also include requirements associated with remediation and validation works, which will be maintained on the consent.

State Environmental Planning Policy 65 – Design Quality of Residential Apartment Development (SEPP 65)

The development as proposed to be modified falls within the definition of a residential apartment building under SEPP 65. The policy aims to improve the design quality of residential flat buildings in NSW by addressing the following design principles:

Context and Neighbourhood Character

The proposed modification is in keeping with the desired future character of the area. Higher density residential development that has a lower built form at the interface with the Cooks River foreshore is envisaged by the applicable planning controls for the Canterbury Town Centre and Riverfront precinct.

It is considered that the proposed modifications to the development improve the way the development responds to the site context. The development ties in with the river foreshore and the main Canterbury town centre allowing public access through the site together with land dedications to widen the publically owned river foreshore area, and for the construction of a signalized intersection at Canterbury Road, Close Street and Charles Street. The proposed modifications enable a widening of Close Street for more efficient traffic flow.

Built Form and Scale

The proposed modifications do not alter the approved height and FSR on the site. Rather the floor plates are altered and changes applied to individual units and setbacks of the building to respond to the altered intersection design. The height controls applicable at the site aim to control the bulk and scale of the developments adjoining the river foreshore area so as to achieve a hierarchy of built form that is lower in scale at the interface with the foreshore. The proposed modifications do not change the developments overall built form and scale.

Density

The proposed modifications do not alter the total FSR on the site from that which was originally approved. The modifications alter the dwelling combinations on the site so as to increase the number of units from 397 to 439 with an increase in the number of small dwellings. Based on the information submitted with this application and the site context, the development would be suited to singles and young couples entering the housing market and that rely of public transport, and to older persons given the location of the site within the town centre and in proximity to the Canterbury Hospital. The proposed housing mix also includes a number of two bedroom apartments that would be suitable for families. The development is considered to respond to changing housing needs in the locality.

Sustainability

The applicant has submitted a modified BASIX Certificate with this application which indicates the development will achieve the water, thermal comfort and energy related objectives of the SEPP. The proposed

design complies with the solar and daylight access and natural ventilation requirements of the Apartment Design Guide achieving the relevant performance indicators.

Landscape

The proposal makes minor modifications to the landscaping on the site, which includes (but not limited to) the inclusion of trees along the Close Street frontage of the site among proposed on-street parking spaces. The revised landscape plans have been reviewed by Council's Landscape Architect who has raised no objections subject to modifications to landscape related conditions.

The modifications have been assessed under the provisions of Apartment Design Guide which increases the communal open space requirements on the site from 10% (when originally assessed under the Residential Flat Design Code), to minimum 25%. The proposal complies with this requirement based on the substantial areas of open space at the interface of the site with the river foreshore. The siting of the open space areas optimise usability, privacy and social opportunity, equitable access and respect for neighbours' amenity, and provide for practical establishment and long term management.

Amenity

The amenity afforded to future residents is satisfactory with all apartments providing appropriate room sizes, privacy, private open space areas, efficient access, storage facilities, solar access and ventilation which meet the minimum requirements of the Apartment Design Guide.

Safety

The safety and security of the development will remain largely unchanged with the proposed modifications. Conditions of consent to ensure safety and security though the development which were imposed as part of the original application will be maintained.

Housing diversity and social interaction

The social dimensions and housing affordability in this development will be improved as a result of the modifications, based on information submitted by the applicant which forecasts an increase in first home buys entering the market with smaller more affordable units, which are also households most likely to utilise the infrastructure that is proximity to the site including the railway station for singles and couples, while empty nesters can also down-size into such a development which offers proximity to the town centre and the local hospital facilities. There are also accessible units which offer accommodation options for disabled residents.

Aesthetics

The design of the proposal in terms of building envelope and building lines is consistent with the objectives of Canterbury LEP 2012 and Canterbury DCP 2012.

The proposal as modified will contribute positively to the Canterbury Town Centre and Riverfront Precinct. In particular the scale, density and built form of the development remain largely unchanged from the original approval.

- **Apartment Design Guide**

Further to the design quality principles discussed above, the proposal has been considered against the various provisions of the Apartment Design Guide in accordance with Clause 29 (2) (c) of SEPP 65.

This consideration includes an assessment of the objectives of Parts 3 and 4 of the ADG. The applicant's designer provided a design verification statement at lodgment to demonstrate that the objectives have been achieved.

An assessment of the proposed development in regards to the following 'Design Criteria' controls of the ADG is demonstrated in the table below:

Section	Design Criteria	Proposed	Complies
Part 3 Siting the Development			
3D Communal and Public Open Space	Communal open space has a minimum area equal to 25% of the site (minimum 1959.6sqm)	1974sqm	Yes
	Developments achieve a minimum of 50% direct sunlight to the principal usable part of the communal open space for a minimum of 2 hours between 9 am and 3 pm on 21 June (mid-winter).	Communal open space overshadowed by the development on June 21. Communal open space is sited at same location as original approval and links into the river foreshore area.	No* refer to comments
3E Deep Soil Zones	Deep soil zones are to meet the following minimum dimensions:		No* refer to comments
	Site Area	Minimum Dimensions	
	Less than 650m ²	-	
	650m ² - 1,500m ²	3m	
	Greater than 1,500m ²	6m	
	Greater than 1,500m ² with significant existing tree cover	6m	
		7% (548.7sqm)	

Section	Design Criteria	Proposed	Complies																								
3F Visual Privacy	Separation between windows and balconies is provided to ensure visual privacy is achieved. Minimum required separation distances from buildings to the side and rear boundaries are as follows:	No direct neighbours (Cooks River and foreshore to the south and west, Canterbury Road to the north, and Close St to the east). Following separations are provided at the site between buildings:	Yes																								
	<table><tr><th>Building Height</th><th>Habitabl e Rooms & Balconie s</th><th>Non-habita ble Rooms</th></tr><tr><td>Up to 12m (4 storeys)</td><td>6m</td><td>3m</td></tr><tr><td>Up to 25m (5-8 storeys)</td><td>9m</td><td>4.5m</td></tr><tr><td>Over 25m (9+ storeys)</td><td>12m</td><td>6m</td></tr></table>	Building Height		Habitabl e Rooms & Balconie s	Non-habita ble Rooms	Up to 12m (4 storeys)	6m	3m	Up to 25m (5-8 storeys)	9m	4.5m	Over 25m (9+ storeys)	12m	6m	<table><tr><th>Building Height</th><th>Habitabl e Rooms & Balconie s</th><th>Non-habita ble Rooms</th></tr><tr><td>Up to 12m (4 storeys)</td><td>18m</td><td>N/A</td></tr><tr><td>Up to 25m (5-8 storeys)</td><td>22m</td><td>N/A</td></tr><tr><td>Over 25m (9+ storeys)</td><td>28m</td><td>N/A</td></tr></table>	Building Height	Habitabl e Rooms & Balconie s	Non-habita ble Rooms	Up to 12m (4 storeys)	18m	N/A	Up to 25m (5-8 storeys)	22m	N/A	Over 25m (9+ storeys)	28m	N/A
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	Note: Separation distances between buildings on the same site should combine required building separations depending on the type of room (See Figure 3F.2 of ADG). Gallery access circulation should be treated as habitable space when measuring privacy separation distances between neighbouring properties.																										

Section	Design Criteria	Proposed	Complies				
3J Bicycle and Car Parking	For development within 800 metres of a railway station the minimum car parking requirement for residents and visitors is the lesser of that set out within the Guide to Traffic Generating Developments or Council requirements as set out in the table below. Otherwise, the CDCP controls apply (See table below). The Guide Rates are lesser for the <u>RFB component</u> only and are applied as per below:	209 spaces – allocations as per condition of consent	Yes				
	<table><tr><th>Developme nt Type</th><th>Parking Requirement</th></tr><tr><td>High Density Residential Flat Buildings (20 or more dwellings).</td><td>Metropolitan sub-regional centres •0.6 spaces per 1 bedroom unit (168 x 0.6) = 101 •0.9 spaces per 2 bedroom unit (68 x 0.9) = 61 •1.40 spaces per 3 bedroom unit = N/A •+1 space per 5 units (<u>visitor parking</u>) = 47 TOTAL: 209 spaces</td></tr></table>			Developme nt Type	Parking Requirement	High Density Residential Flat Buildings (20 or more dwellings).	Metropolitan sub-regional centres •0.6 spaces per 1 bedroom unit (168 x 0.6) = 101 •0.9 spaces per 2 bedroom unit (68 x 0.9) = 61 •1.40 spaces per 3 bedroom unit = N/A •+1 space per 5 units (<u>visitor parking</u>) = 47 TOTAL: 209 spaces
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<i>Car parking for the Shop-top housing component is assessed under DCP 2012 which includes lower requirements for Large Centre.</i>	<i>Refer to DCP assess DCP controls for parking are lesser for the shop-top housing component of the development (Buildings 1 and 2) so that portion is assessed under DCP 2012.</i>						
The car parking needs for a development must be provided off street.	Provided off-street	Yes					
Part 4 Designing the Building							
4A Solar and Daylight Access	Living rooms and private open spaces of at least 70% of apartments in a building receive a minimum of 2 hours direct sunlight between 9 am and 3 pm at mid-winter.	71%	Yes				
	A maximum of 15% of apartments in a building receive no direct sunlight between 9 am and 3 pm at mid-winter	14.4%	Yes				
4B Natural Ventilation	At least 60% of apartments are naturally cross ventilated in the first nine storeys of the building. Apartment at ten storeys or greater are deemed to be cross ventilated only if any enclosure of the balconies at these levels allows adequate natural ventilation and cannot be fully enclosed.	61%	Yes				

Section	Design Criteria	Proposed	Complies																				
	Overall depth of a cross-over or cross-through apartment does not exceed 18m, measured glass line to glass line.	14.6m maximum	Yes																				
4C Ceiling Heights	Measured from finished floor level to finished ceiling level, minimum ceiling heights are:																						
	<table><tr><th colspan="2">Minimum Ceiling Height for Apartment and Mixed Use Buildings</th></tr><tr><td>Habitable rooms</td><td>2.7m</td></tr><tr><td>Non-habitable</td><td>2.4m</td></tr><tr><td>For 2 storey apartments</td><td>2.7m main living area floor 2.4 for second floor, where its area does not exceed 50% of the apartment area</td></tr><tr><td>Attic Spaces</td><td>1.8m at edge of room with a 30 degree minimum ceiling slope</td></tr><tr><td>If located in mixed used areas</td><td>3.3m for ground and first floor to promote future flexibility of use</td></tr></table>		Minimum Ceiling Height for Apartment and Mixed Use Buildings		Habitable rooms	2.7m	Non-habitable	2.4m	For 2 storey apartments	2.7m main living area floor 2.4 for second floor, where its area does not exceed 50% of the apartment area	Attic Spaces	1.8m at edge of room with a 30 degree minimum ceiling slope	If located in mixed used areas	3.3m for ground and first floor to promote future flexibility of use	Residential 2.7m Commercial: 3.3m – 4.4m	Yes Yes							
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These minimums do not preclude higher ceilings if desired.																							
4D Apartment Size and Layout	Apartment are required to have the following minimum internal areas:																						
	<table><tr><th>Apartment Type</th><th>Minimum Internal Area</th></tr><tr><td>Studio</td><td>35m²</td></tr><tr><td>1 bedroom</td><td>50m²</td></tr><tr><td>2 bedroom</td><td>70m²</td></tr><tr><td>3 bedroom</td><td>90m²</td></tr></table>	Apartment Type	Minimum Internal Area	Studio	35m²	1 bedroom	50m²	2 bedroom	70m²	3 bedroom	90m²	<table><tr><th>Apartment Type</th><th>Minimum Internal Area</th></tr><tr><td>Studio</td><td>35m² minimum</td></tr><tr><td>1 bedroom</td><td>50m² minimum</td></tr><tr><td>2 bedroom</td><td>70m² - 75m²</td></tr><tr><td>3 bedroom</td><td>90m² minimum</td></tr></table>	Apartment Type	Minimum Internal Area	Studio	35m² minimum	1 bedroom	50m² minimum	2 bedroom	70m² - 75m²	3 bedroom	90m² minimum	Yes
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The minimum internal areas include only one bathroom. Additional bathrooms increase the minimum internal area by 5m² each.																							
A fourth bedroom and further additional bedrooms increase the minimum internal area by 12m² each.																							
Every habitable room must have a window in an external wall with a total minimum glass area of not less than 10% of the floor area of the room. Daylight and air may not be borrowed from other rooms.	Dwelling Type 1A and 1B include study areas with no windows – a condition of consent to be included to remove enclosing walls to enable compliance	Yes* via condition																					
Habitable room depths are limited to a maximum of 2.5 x the ceiling height.	Habitable rooms limited to 2.5 x ceiling height.	Yes																					

Section	Design Criteria	Proposed	Complies																														
	In open plan layouts (where the living, dining and kitchen are combined) the maximum habitable room depth is 8m from a window.	Maximum 8m	Yes																														
	Master bedrooms have a minimum area of 10m ² and other bedrooms 9m ² (excluding wardrobe space).	Unit Type 6H, 7A, 8A and 8B includes main bedrooms just under 10m ² . A condition of consent will be imposed to ensure minimum 10m ² allowance for main bedrooms of these dwellings	Yes* via condition																														
	Bedrooms have a minimum dimension of 3m (excluding wardrobe space).	Bedrooms include minimum 3m dimension	Yes																														
	Living rooms or combined living/dining rooms have a minimum width of: 3.6m for studio and 1 bedroom apartments 4m for 2 and 3 bedroom apartments	- Minimum 3.6m for studio and 1 bedroom apartments - Minimum 4m for 2 and 3 bedroom apartments	Yes																														
	The width of cross-over or cross-through apartments are at least 4m internally to avoid deep narrow apartment layouts.	Min 4m	Yes																														
4E Private Open Space and Balconies	All apartments are required to have primary balconies as follows: <table><tr><th>Dwelling type</th><th>Minimum Area</th><th>Minimum Depth</th></tr><tr><td>Studio apartments</td><td>4m²</td><td>-</td></tr><tr><td>1 bedroom apartments</td><td>8m²</td><td>2m</td></tr><tr><td>2 bedroom apartments</td><td>10m²</td><td>2m</td></tr><tr><td>3+ bedroom apartments</td><td>12m²</td><td>2.4m</td></tr></table>	Dwelling type	Minimum Area	Minimum Depth	Studio apartments	4m ²	-	1 bedroom apartments	8m ²	2m	2 bedroom apartments	10m ²	2m	3+ bedroom apartments	12m ²	2.4m	<table><tr><th>Dwelling type</th><th>Minimum Area</th><th>Minimum Depth</th></tr><tr><td>Studio apartments</td><td>4m²</td><td>-</td></tr><tr><td>1 bedroom apartments</td><td>8m²</td><td>2m</td></tr><tr><td>2 bedroom apartments</td><td>10m²</td><td>2m</td></tr><tr><td>3+ bedroom apartments</td><td>12m²</td><td>2.4m</td></tr></table>	Dwelling type	Minimum Area	Minimum Depth	Studio apartments	4m ²	-	1 bedroom apartments	8m ²	2m	2 bedroom apartments	10m ²	2m	3+ bedroom apartments	12m ²	2.4m	Yes
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The minimum balcony depth to be counted as contributing to the balcony area is 1m.	Minimum 1m wide area included in calculations																																
	For apartments at ground level or on a podium or similar structure, a private open space is provided instead of a balcony. It must have a minimum area of 15m ² and a minimum depth of 3m.	Ground floor units which have an interface with the internal podium/communal open space and units facing the street include 15sqm of private open space with min 3m depth. Apartments on the southern side that share an interface with the adjoining parkland are not appropriate for courtyards as they not located on 'podiums' and are elevated above ground level to provide a better outcome as balconies with balustrades rather than courtyards with high fencing.	Yes																														

Section	Design Criteria	Proposed	Complies																				
4F Common Circulation and Spaces	The maximum number of apartments off a circulation core on a single level is eight.	6-19 apartments off a circulation core	No* Refer to comments																				
	For buildings of 10 storeys and over, the maximum number of apartments sharing a single lift is 40.	Maximum 9 storeys	Yes																				
4G Storage	In addition to storage in kitchens, bathrooms and bedrooms, the following storage is provided: <table><tr><th>Dwelling type</th><th>Storage size volume</th></tr><tr><td>Studio apartments</td><td>4m³</td></tr><tr><td>1 bedroom apartments</td><td>6m³</td></tr><tr><td>2 bedroom apartments</td><td>8m³</td></tr><tr><td>3+ bedroom apartments</td><td>10m³</td></tr></table>	Dwelling type	Storage size volume	Studio apartments	4m³	1 bedroom apartments	6m³	2 bedroom apartments	8m³	3+ bedroom apartments	10m³	<table><tr><th>Dwelling type</th><th>Storage size volume</th></tr><tr><td>Studio apartments</td><td>4m³</td></tr><tr><td>1 bedroom apartments</td><td>6m³</td></tr><tr><td>2 bedroom apartments</td><td>8m³</td></tr><tr><td>3+ bedroom apartments</td><td>10m³</td></tr></table>	Dwelling type	Storage size volume	Studio apartments	4m³	1 bedroom apartments	6m³	2 bedroom apartments	8m³	3+ bedroom apartments	10m³	Yes
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At least 50% of the required storage is to be located within the apartment.	Min 50% within apartment																						

The proposed development generally complies with the design criteria of the ADG. The following matters require further discussion:

3D Communal and Public Open Space

The objectives of this clause are to ensure that ‘an adequate area of communal open space is provided to enhance residential amenity and to provide opportunities for landscaping’ and that ‘communal open space is designed to allow a range of activities, respond to site conditions and be attractive and inviting’. The proposal includes a communal open space area that is orientated to the south of the proposed buildings to interlink with the Cooks River foreshore area.

The open space was approved at this location under the original development application and is the subject of minimal change in this regard. The area provides a children’s play area, seating, public art and bicycle racks which allow a transition from the river foreshore to the semi-private domain on the podium level. The proposed modifications include an additional pedestrian access way from the river foreshore walkway to Canterbury Road at the western corner of the site. This, together with the public right of way which is to be established over the open ground level areas of the development will provide a pedestrian link from the southern portion of the Cooks River foreshore to the remainder of the Canterbury town centre on the northern side of Canterbury Road. The establishment of the traffic lights will enable a safe pedestrian link between the northern and southern sides across Canterbury Road.

An alternative design which might allow increased solar access would require the re-location of the communal open space to the northern side of the buildings and will separate the communal open space from the

river foreshore which is not considered to be a better outcome. The proposed open space will receive direct solar access to 59% - 70% of the total area for at least 2 hours on the Equinox and more during the summer months which is considered to be acceptable in this case.

3E Deep Soil Zones

The proposal exceeds the minimum area of deep soil required, however 16.9sqm of the provided area does not have a minimum 6m dimension. This equates to approximately 3% of the required 548.7sqm. The design guidance provided in clause 3E acknowledges that “achieving the design criteria may not be possible on some sites including where:...the location and building typology have limited or no space for deep soil at ground level (e.g. central business district, constrained sites, high density areas, or in centres)...where a proposal does not achieve deep soil requirements, acceptable stormwater management should be achieved and alternative forms of planting provided...”.

The subject development is in a town centre but still provides usable deep soil areas falling just short of meeting the minimum dimension requirement only. The proposal includes areas of deep soil along, the Close Street frontage that do not meet the minimum 6m dimension requirement but would accommodate mature sized trees within a new footpath that will be created by a public right of way over this portion of the site. It is considered that the proposed deep soil areas meet the objectives of the clause 3E of the AGD as sufficient areas are provided for healthy plant and tree growth at key sections of the site.

4F Common Circulation Spaces

The proposal involves two lift cores within each of the four buildings which together service between six and 19 dwellings depending on the building and level. The objective of this requirement is that “common circulation spaces achieve good amenity and properly service the number of apartments”. The design of the buildings and the location of the access cores are such that there are two lifts located centrally to an ‘L’ shaped corridor. As such, had the design included a wall between the two lifts within the corridor, the development would numerically comply with this requirement. This however is not considered to be a better outcome in terms of achieving the objectives of this requirement. The ‘L’ shaped design and the central location of the lifts means that there is a maximum of eight units accessed off each wing of the corridor which achieves the intended purpose of the control, while access to two lifts rather than a single lift (which would be the case if a wall was to be constructed between the two lifts) will better service the apartments.

State Environmental Planning Policy 2004 – BASIX (SEPP BASIX)

The applicant has submitted a revised BASIX Certificate for the proposal which indicates the development as modified will achieve the water, thermal comfort and energy related targets of the SEPP.

Canterbury Local Environmental Plan 2012

The site is zoned B2 – Local Centre and R4 – High Density Residential under CLEP 2012. The controls applicable to this application are:

Standard	Requirement	Proposed		Comments
Acid Sulfate Soils	Management of Acid Sulfate Soils	Affected by Class 4 Acid Sulfate Soils		Preliminary Acid Sulfate Management Plan submitted with original application.
Zoning	B2 – Local Centre	The proposed development on this portion of the land is defined as 'shop top housing' and 'commercial premises' under the LEP 2012.		The proposed development is permissible with consent under the LEP 2012 in the B2 zone.
	R4 – High Density Residential	The proposed development on this portion of the site is defined as 'residential flat building' under LEP 2012		The proposed development is permissible with consent under the LEP 2012 in the R4 zone.
FSR	3:1 and 2.75:1	Approved	S96	The proposed development does not comply with the FSR controls contained with LEP 2012
		3.4:1 2.8:1 Overall 3.08:1	3.285:1 2.93:1 Overall 3.08:1	
Building Height	Combination of: 11m 14m 21m 27m	Approved	S96	Building heights remain unchanged from previous approval.
		0m – 15.5m 15.5m 28.6m 31.1m	0m – 15.5m 15.5m 28.6m 31.1m	

- Height
The Building Height Map associated with Canterbury LEP 2012 nominates a series of different height controls affecting this site as follows:

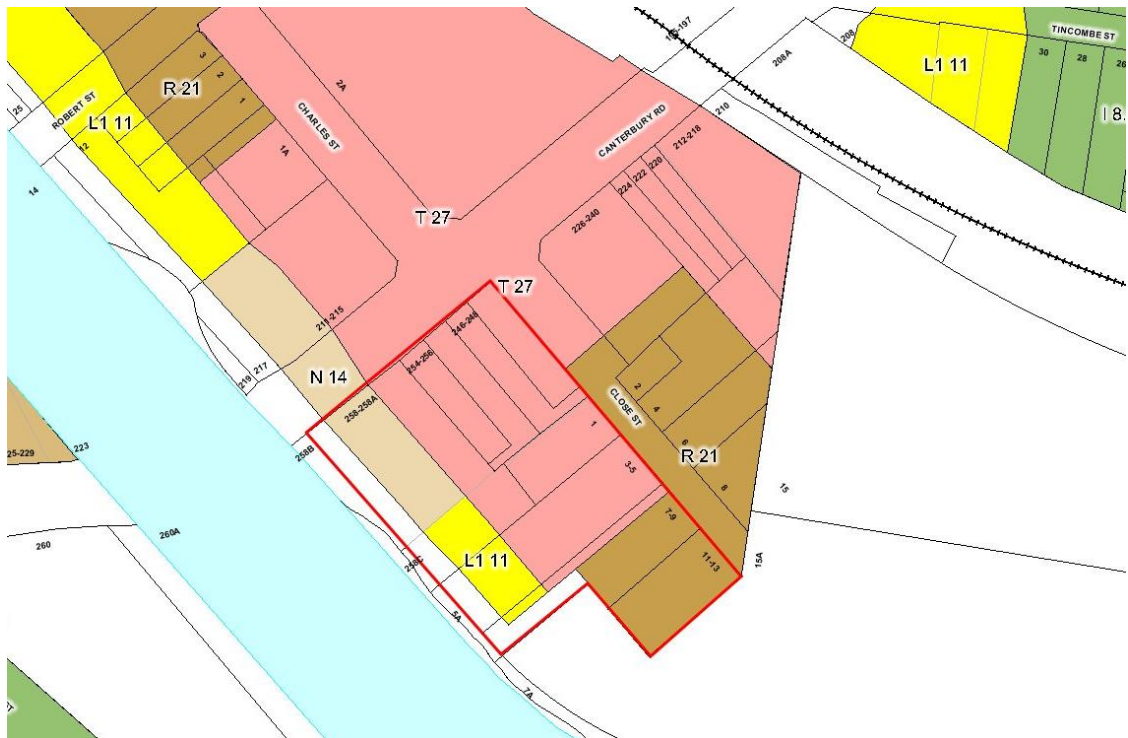


Figure No. 4 – Extract of Building Height Map under Canterbury Local Environmental Plan 2012

The proposed modifications do not alter the development's height from that which was approved under the original application which included a variation to Clause 4.3(2) of CLEP 2012 relating to the height of buildings. The applicant had submitted a justification in accordance with Clause 4.6 of CLEP 2012 which remain applicable.

Floor Space Ratio (FSR)

The subject site is made up of two separate zones that are subject to differing FSR controls. The development approved on the B2 zoned land has an FSR of 3.4:1. The proposed modifications result in a reduction to the FSR on this portion of the site resulting in an FSR of 3.285:1.

That portion of the development approved on the R4 zone has an FSR of 2.8:1, which increases to 2.93:1 as a result of the amendments to the design. The proposed development has a combined overall FSR of 3.08:1, which remains unchanged.



The proposed modifications have shifted some of the floor areas from the B2 zoned section of the site to the R4 zoned portion of the site within the same development. This has occurred mainly as a result of the intersection re-design which has required more of the B2 zoned land to be dedicated and the building to be shifted back. The overall height of the buildings and the FSR remain unchanged, while the changes to the floor plates comply with the ADG and DCP requirements in terms of design. The proposed modifications are considered to be acceptable in terms of maximum floor space ratio.

Canterbury Development Control Plan 2012

Part 3 – Business Centres

The current application compares against Part 3 of the Canterbury Development Control Plan 2012 as applicable at the time of the original application as follows:

Standard	Requirement	Proposed	Complies
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Envelope Controls				
Diagrams for Canterbury Town Centre:	Height: Combination of 8, 6, 4 and 3 storeys	5 and 9 storeys		As per original DA
Site Amalgamation:-	4, 6, 8 Close St and 212-218, 220, 222242-258 Canterbury Rd to be amalgamated + 3-13 Close St to be amalgamated	All properties amalgamated.		As per original DA
Min Lot Size:	1500sqm Avoid isolation of undeveloped sites	7838.5sqm No isolation		As per original DA
Major developments Sites	-Min 2000sqm site area -Not applicable to master planned sites -Any increase in height must not exceed one storey and 15% of site area (approx.1175sqm) - Any additional storey not at front of site – can be used to accentuate a corner. -Design measures to minimize height and bulk	-7838.5sqm - Not master planned -Exceeds one storey and 15% (22% proposed) -Additional storeys accentuate corner element -Adequate design measures responding to attributes of site		As per original DA
Height:	27m – 8 storey 21m – 6 storey 14m – 4 Storey 11m – 3 storey	10 storey 9 storey 5– 9 Storey Open space	9 storey 9 storey 5 - 9 Storey Open space	Breach to number of storeys as per original. Decreases storeys in Bldg 2 with deletion of first floor commercial.
	Floor to ceiling heights:- Min 3.3m ground floor Min 2.7m residential floors Min 2.8m car park Depth/footprint - Residential Max 18m glass to glass	Refer to ADG assessment Refer to ADG assessment		

	Depth/footprint – Commercial Max 24m depth Min 10m depth Max wall length 50m (commercial)	10m – 17.5m <50m	Yes Yes
Setbacks	1-4 Storeys : 3m 4 storeys +: Additional 5m	2m – 19m 2m – 19m	No* refer to comments
Building separation	Up to 3 storeys = 6m min Fourth storey = 12m min Fifth to Eighth storey = 18m	Refer to ADG assessment	
Parking	Shop Top Housing: 0.25spaces/Studio (0.25 x 72) = 18 spaces 0.8space/1 bed dwelling (0.8 x 79) = 63 spaces 1 space/2 bed dwelling (1 x 50) = 50spaces 1 space/ 3bed dwelling (1 x 2) = <u>2 spaces</u> Total: 133 spaces Min 1 car wash bay	241 spaces i.e. 480 spaces in total – 209 (RFB component) and 30 (ground level commercial) = 241spaces remaining. 1 car wash bay	Yes Yes
	Bicycle (<i>All dwellings including RFB</i>): 1/5 dwellings + 1/10 (439/5) + (439/10) = 132 Bicycle (commercial): 1/200sqm (<u>2 spaces</u>) Total: 134	168	Yes
	Retail 1 space/ 33sq, (120-1000sqm) Total: 15 spaces Service Vehicle space	30 spaces at ground level 1 x service space	Yes Yes

	Basement Parking Provide: -Secure bicycle parking accessible from ground floor, apartments and other uses - Shared multi-use parking and shared access driveways. Limit visitor parking if impacts on open space - Separate long term (resident + employee) parking from short-term (shopper + visitor) parking, separate parking for residential and non-residential and provide safe access to long term parking. -Safe and efficient lift access to building	- Bicycle parking provided at ground and basement levels. - Multi-use parking areas provided - Residential and commercial parking adequately separated. -Access to building from multiple points.	Yes Yes Yes Yes
Design Controls			
Street Address	- Entries to relate to existing street - provide awning over entry - Provide accessible entries for furniture transportation etc. - Provide access to upper levels of business centre from street façade. - Face habitable rooms windows toward public areas	Street address is acceptable in that the development will provide access from public areas to the various components of the building and will present habitable rooms to all public areas.	Yes
Façade Design and Articulation	-Avoid long spans of blank wall along street frontage and address both streets on corner sites. -Incorporate contrasting elements in the façade and express building layout in façade. - Façade to reflect orientation of building (sun shades etc) - Modulate wall alignment with 1m step in.	Building has been articulated adequately and responds to site constraints and opportunities. Building facades adequately expresses building layout with wall alignments adequately modulated where appropriate.	Yes
Façade Details	-Solid to void ratio of 50% (not including shopfronts) - Use balconies at rear and minimise on front façade	There is an equal ratio of solid to void within the façade of the primary street frontage. Balconies designed to minimise impacts of Canterbury Rd frontage.	Yes
Shopfronts	-Transparent windows on façade; - No external roller shutters	Windows on the street are transparent. No external solid roller shutters or brick walls proposed on shop front.	Yes
Corners, gateway sites and foreground treatments	Emphasise important corners and gateways Variation to front setback requirements can be considered for to emphasise corner	Corner emphasised adequately. Variations applied to setback controls to enable corner treatments and intersection design.	Yes

Frontage types	--Colonnade— -Façade built to boundary with 3m setback at ground level for public colonnade -Range 3.2 -4.2m in height for colonnade.	Façade built to boundary with 2m – 6.3m setback at ground level for public colonnade. Colonnade height 3.2m-4.2m	Yes
Roof Design	- 10° or less - Emphasise building articulation with shape and alignment - Relate to size and scale of building.	-Flat roof proposed -Building articulation emphasised by the shape and alignment of the roof -Roof design adequately related to the size and scale of the building, the building elevations and three-dimensional building form.	Yes
Performance Controls			
Visual Privacy	-Maximise visual privacy between buildings on and adjacent to the site -Separate communal open space, common areas and access routes from windows of rooms.	-Visual privacy between unit balconies and windows maintained - Much of the areas surrounding ground floor units allocated as courtyard to avoid interface with public access routes.	Yes
Acoustic Privacy	Address all requirements of 'Development Near Rail Corridors and Busy Roads (Interim Guideline) by NSW Department of Planning.	Acoustic report by Acoustic Logic. Recommendations to be implemented as condition of consent as per original application.	Yes
Open Space	All residents to have access to private open space All residents to have access to communal open space Balconies and private courtyards: - 2 or more bedrooms: 10% of floor area as balcony - 8sqm primary balcony for 1 bedroom - 12sqm primary balcony for 2b+ Minimum 2m depth/balcony Communal Open Space -6m minimum dimension for each communal open space - min 10% of site area (783.9sqm) as communal open space on sites >500sqm	Refer to ADG assessment	
Internal Dwelling Design	Each living area and principal bedroom has a minimum width of 3.5m Storage Min 6m³ /1B unit Min 8m³ / 2B unit Min 10m³ / 3B+	Refer to ADG assessment	

Setbacks – Canterbury Road

The front setbacks of the building do not comply with the numerical controls of DCP 2012. A minimum 3m setback is required to be maintained for the first 4 storeys of the building with an additional 5m for the levels above that.

The subject site is key to the intersection design at this part of Canterbury Road, while also being considered to be a gateway site to this section of the Canterbury Town Centre, as well as constituting a major development site.

In normal circumstances a minimum 3m setback is required for the first four storeys of the development in B2 zones along Canterbury Road, while in other town centre locations developments can be built to the front boundary. This requirement is based on the structure plans within the DCP which identify future opportunities along Canterbury Road for road widening and the creation of on street car parking. Given the location of the subject site is between traffic lights (to be installed upon dedication of land on the corner of Close Street and Canterbury Road as a result of this application) and a bridge, Council engineers have confirmed that any such works will not take place at this location. As such, the development has adopted a colonnade style façade which facilitates a sufficient sized footpath along Canterbury Road and Close Street with a public right of way to be established over these areas. The modifications that are the subject of this application have taken into consideration a more efficient intersection design.

The proposed building setbacks are considered to be appropriate with sufficient architectural breaks and articulation given the colonnade frontage type and the corner elements applied to the interface with Close Street and the Cooks River elevations which add architectural interest while shielding the residential apartments from the noise impacts of the Canterbury Road.

Part 2– Residential Neighbourhoods

The current application (portion within the R4 zone) compares against Part 2 of the Canterbury Development Control Plan 2012 as follows:

Standard	Requirement	Proposal	Complies
Isolation of Sites	No isolation of neighbouring properties so that it is incapable of being reasonably developed	No isolation of neighbouring properties	Yes
Minimum Frontage	30m minimum	75m	Yes
Height	-Roof top terraces not permitted in residential zones. -Basement permissible for single dwellings in all zones, multiple unit and residential flat building in R4 zone only. No other residential is permitted basement. - Max. Height under Canterbury Town Centre structure plans is 8 storey + 6 storey	-Not proposed -Basement proposed – permitted for RFB 9 storey	Yes As per original approval

Depth/Footprint	25m maximum Can be increased to 35m if deep soil planting is incorporated as per CI 2.1.6	<25m	Yes
Setbacks	Front: 6m minimum Rear: 6m minimum Side: 4m minimum Deep soil: min 2m wide along side boundaries, & min 5m along front and rear boundaries.	Front: 2.7m - 6m Refer to ADG assessment Refer to ADG assessment 0m – 1.8m along front, 0m along side 0m – 14.6m along rear boundary	No* refer to comments No* refer to comments
Parking	S +1b = 1 space 2b = 1.2spaces 3b+ = 2 spaces Visitor: 1 space/5 dwellings Basement access under terrace/verandah or setback 1m from façade.	Refer to ADG assessment Not visible from street	 Yes
Design Controls			
Street Address	-Clearly identifiable entries. -Provide main common entry and separate private ground floor apartment entries where appropriate - At least one habitable room window to face street - At least one habitable - room window to face internal communal areas. -No obstruction to views from street to development and vice versa. -Ground floor dwellings in multiple unit developments with private entrances must have 2m setback with landscaping from street boundary to courtyard and private open space is clearly articulated.	- Clear entries -Main common and informal alternate entries to ground floor units -Windows to communal area and windows to central area -No obstruction -3m with adequate landscaping	Yes Yes Yes Yes Yes
Façade Design and Articulation	-Avoid long flat walls - step of at least 1m for RFB's. -Address both street frontages - Use non reflective materials, treat publicly accessible areas with anti-graffiti coating.	- Long flat walls avoided - Steps of 1m+ - Addresses both street frontages and adjoining park lands - Non reflective materials to be used	Yes Yes Yes Yes
Roof Design	-No steep pitched roofs – use 10% pitch or less -Emphasise building articulation with shape and alignment of roof -Emphasise corner apartments or prominent balcony structures with raised roof elements	Flat roof Roof design acceptable Corner apartments emphasised with elements enclosing balconies on mid floors	Yes Yes Yes

	-Relate roof design to building and respond to orientation of site.	-roof design acceptable	
Service and Utility Areas	- Integrated into the design of development and are not visually obtrusive. - Unscreened appliances not to be visible from the street, communal area or driveway on the site (air con. Units behind balustrades, screened recesses for water heaters, meters in service cabinets) - Communal rooftop antenna to be provided. -Screen clothes drying areas from public view, storage space screened and integrated into design. - Discretely located mailbox in front of property -	Integrated into design adequately. Not visible from street – adequately integrated into design -Condition on original DA -Mailboxes at discreetly located at main entry points	Yes Yes Condition Yes
Performance Controls			
Visual Privacy	Locate and orientate new developments to maximise visual privacy between buildings – if preferred orientations are not achievable use high sill windows or <600mm wide.	Refer to ADG assessment	
Open Space	1 bedroom = 9sqm 2bedroom = 12sqm 3+ bedroom = 16sqm Communal Area= Minimum 15% of the open space created by setbacks and building separations	Refer to ADG assessment	
Open Space Design	Private open space, communal open space, garden courtyard or terrace, and balconies to be designed as per Cl. 2.3.3	Refer to ADG assessment	
Internal Dwelling Space and Design	-Dimensions and design of interiors to accommodate furniture typical for purpose of room. - Living room and main bedroom min 3.5m dimension - Secondary bedrooms to have minimum 3m width -Storage: Minimum 6m³ /1bedroom, 8m³ /two bedroom, 10m³/3+ bedroom dwelling.	Refer to ADG assessment	
	- Communal stairwells to receive natural daylight and ventilation.	Primarily lift access to units – stairs also used in case of fire so not suitable for window openings in this design.	As per original approval

Housing Choice	10% of dwellings to be provided as accessible or adaptable units to suit residents with special needs	49 adaptable apartments proposed (11%)	Yes
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The development (as modified) is generally compliant with the applicable controls within the DCP 2012 with the exception of the following:

Setbacks

The proposed development does not comply with the front setback requirements of DCP 2012 in terms of the residential flat building component of the development facing Close Street. The setbacks approved at the Close Street frontage were a staggered design varying between 3m and 6m. The modified design is similar with a minimum setback of 2.7m to 6m generally. The modifications now include a curving of the floor plate which impacts changes to setbacks numerically but on average, the area of setback from Close Street remains similar in total area.

The setbacks follow a similar profile to what was originally approved, with the modified design now splitting the building into identifiable elements with the use of staggering setbacks and a curving of the built form. This in turn reduces the overall bulk of the building as viewed from Close Street, and responds to the site context as the Street bends and expands in width at the southern end of the site.

The proposed setbacks are considered to be acceptable given the attributes of this site.

Housing Choice

Clause 2.3.6 of DCP 2012 refer to Housing Choice and includes an objective to achieve 'a variety of dwelling types and accommodate diverse households and meet diverse housing needs, with increased housing and lifestyle choices provided in apartment living'. The controls of the DCP associated with Housing Choice then go on to require a minimum 10% of dwelling be accessible or adaptable, which have been provided in the proposed development.

The applicant was also requested to address the objective of this control, to provide a variety of dwelling types to meet diverse housing needs, given the development now includes a greater number of smaller studio and 1 bedroom apartments. The applicant provided a statement from an associated real estate agent McGrath Real Estate stating among other items that *"first home buyers are re-entering the market place in noteworthy numbers...., affordability is continually challenging in the Sydney market and rigid price brackets are developing within the various sectors of the market... we definitely see studio/1 bedroom suite style apartments allocated with secure parking; which are priced under five hundred thousand (\$500,000) being in demand with first time home owners purchasing "off-the plan"....Canterbury is a diversified market and is well placed to appeal to the wide range of purchaser types; the present matrix mix definitely accommodates all of the demographic sectors in the area"*.

With the changing demographics of the area, there has been an increase in the percentage of smaller apartments in developments particularly within proximity to railway stations. The objective of the DCP in this regard is to provide diversity to meet diverse *housing needs* which is largely market driven. Based on the information submitted it would appear that the development would be suited to singles and young couples entering the housing market and that rely of public transport, and to older persons given the location of the site within the town centre and in proximity to the Canterbury Hospital. The proposed housing mix also includes a number of two bedroom apartments that would be suitable for families.

Part 6.2 Climate, and energy and resource efficiency

Standard	Requirement	Proposal	Complies
Daylight and Sun access (proposed development)	At least 70% of the proposed apartments living area windows and private open space (balconies) receive at least two hours sunlight between 9am and 3pm in mid-winter	Refer to ADG assessment	
	At least 50% of communal open space receives two hours sunlight between 9am and 3pm in mid-winter	Communal open space will not receive direct solar access in mid-winter	As per original approval
Ventilation	Provide natural cross ventilation to at least 60% of dwellings, and natural ventilation to 25% of kitchens in a multiple unit development	Refer to ADG assessment	
	Use the entranceway as a ventilation pathway to individual units	Entranceway used as ventilation pathway to individual units where appropriate	Yes
	Limit residential building depth to 18m glass line to glass line to support natural ventilation	Refer to ADG assessment	

Accordingly, the proposed modifications are is consistent with the requirements of Part 6.2 and the original consent in terms of variations granted.

Part 6.3 Crime Prevention

The original application was referred to the Team Leader Youth and Safety who found the application to be satisfactory subject to conditions being imposed and made part of any consent issued. Those conditions will continue to be operational as they are relevant to the modified design.

Part 6.4 Development Engineering Flood and Stormwater

The stormwater plan submitted with the modified application has been assessed by our Development Engineer and no objection was raised subject to modification of conditions relating originally imposed.

Part 6.6 Landscaping

The application has been reviewed by our Landscape Architect and was found to satisfy the requirements of CDCP 2012. Conditions relating to landscaping are recommended to be amended to refer to the modified landscape plans.

Part 6.8 Vehicle access and parking

Parking

In accordance with the car parking provisions of Part 6.8 – Vehicle Access and Parking, the proposed development provides adequate car parking required for the development and hence complies with the car parking provisions of CDCP 2012. The proposed development includes small car spaces to enable a green star rating. Council's Traffic Engineer has recommended that the small car spaces be equally distributed through the development between, residential and visitor parking spaces.

Design

The proposed modifications include the widening of Close Street by moving the footpath to within the property (with a public right of way to be established over it), and the creation of a dedicated on-street parking lane that will allow a better flow of two way traffic in the event that there are cars parked on both sides of the street. This area also includes street tree planting opportunities in a deep soil environment. The proposed arrangement has been reviewed by Council's Traffic Engineer who has raised no objections to the widening of this section of Close street subject to conditions of consent associated with the driveway crossing site lines to be maintained at the subject site for safe passage of traffic.

Traffic

The dedication of land at the corner of the subject site is a key element to the successful signalisation of the intersection of Close Street, Canterbury Road and Charles Street at this section of Canterbury Road. The signalisation of the intersection has been earmarked by Council and the RMS as part of the redevelopment of the town centre precinct. The original application included the dedication of land as agreed by the Council and the RMS as an acceptable design at the time. The design has since been refined taking into consideration that the site at the opposite corner of Close Street and Canterbury Road (226-240 Canterbury Road) is not likely to be redeveloped in the short/medium term to enable a similar dedication of land at the corner, to enable vehicles turning into Close Street. The dedication of land at the corner of the site is reflected in the Voluntary Planning Agreement. The land that is to be dedicated will be subdivided from the main development site and dedicated to Council for the construction of the intersection.

Our Traffic Engineer has reviewed the proposed modification in light of the likely traffic impacts at this location and has advised that 'the impact on the surrounding road network as a result of the trips generated by the development is considered to be addressed by the proposed realignment and signalization of the intersection of Canterbury Road with Close Street and Charles Street'.

Part 6.9 Waste Management

The application has been reviewed by our Waste Services Coordinator. In order to satisfy the requirements of Part 6.9 of the CDCP 2012, amendments must be made to the waste arrangements which can be imposed as conditions of consent and must be satisfied prior to the issue of the Construction Certificate. Conditions relating to the developments waste storage area have been provided and are to be attached to any consent issued.

Section 94 Contributions Plan 2005

The provisions contained within Council's Section 94 Contributions Plan 2005 apply to development involving the construction of additional residential development that create further demands to improve and upgrade existing facilities, amenities or services. Contributions payable for developments within the Canterbury Town Centre are based on floor area. The total floor area of the development remains unchanged at a total of 24,142sqm across the total site. Therefore the original condition of consent pertaining to contributions is still valid. The amount will be indexed to current rates at the time of payment.

Planning agreements [section 79C(1)(a)(iia)]

A voluntary planning agreement (VPA) was entered into between Council and the developer on 4 December 2014.

The intention of the VPA is that the developer will dedicate land for the upgrading of the Canterbury Road / Close Street / Charles Street intersection, in exchange for a Section 94 contribution offset of \$720,000. The intersection upgrade is required to support new development that is occurring within the Canterbury Town Centre area.

Council is now negotiating with the developer to enter into a deed to set a revised trigger date, reflecting the Section 96 modification and subsequent refinement to the intersection design.

The regulations [section 79C(1)(a)(iv)]

The proposed modifications are not inconsistent with the relevant provisions of the *Environmental Planning and Assessment Regulation, 2000*.

Any coastal zone management plan [section 79C(1)(a)(v)]

There are no coastal zone management plans applicable to the subject site.

The likely impacts of the development [section 79C(1)(b)]

As discussed throughout this report, the proposed modifications are considered to be acceptable with regard to the likely environmental, social and economic impacts on the locality.

Suitability of the site [section 79C(1)(c)]

These matters have been considered in the assessment of the development application. The proposed redevelopment of the site is permissible and not expected to have any detrimental impacts on the amenity of the locality. The proposed development is considered to be a suitable development in the context of the locality and the future character of the area.

Submissions [section 79C(1)(d)]

The development application was advertised in accordance with the provisions of Council's Development Control Plan 2012 on three occasions (between 9 September 2015 and 30 September 2015, between 13 December 2016 and 17 January 2017, and between 31 January 2017 and 28 February 2017). A total of 58 submissions and one online petition signed by 154 persons have been received. The issues raised in submissions have been addressed as follows:

- **Traffic impacts on local road network and safety of intersection of Close Street, Canterbury Road and Charles Street.**

Comments

The increased traffic generation of the development as a result of the proposed modifications has been assessed in the body of this report. Council's Traffic Engineers have advised that the proposed intersection works will be addressed by the proposed realignment and signalisation of the intersection of Canterbury Road with Close Street and Charles Street. The signalisation of the intersection will also remedy existing traffic safety issues at these intersections.

- **Excessive number of units, dwelling sizes too small with too many studio and 1 bedroom units. The floor area of units are under the bank's lending threshold.**

Comments

The dwelling mix proposed as a result of the modification has been considered as part of this assessment. The proposed dwelling mix is considered to be suitable to the changing demographics of the area. The dwelling sizes are within the minimum requirements of the Apartment Design Guide. Lending policies of particular banking institutions are not a relevant consideration for this assessment. An associated Real Estate Agent has provided feedback about the current market in the area and the suitability of the smaller units for first home buyers.

- **Increased densities and associated pressure on local infrastructure including roads, schools, hospital, public transport and the like. This is likely to be worsened with the**

Comments

It is acknowledged that the area has undergone a significant change in terms of development type and residential densities within the Canterbury town centre. The matters of local infrastructure are land use zoning considerations and are beyond the scope of this assessment. It is noted however, that the proposed development is only a modification to a development application which was approved in 2014 for a development that is substantially the same.

- **Excessive Height of building**

Comments

The building height remains as per the original approval with no change to the maximum heights throughout the development components.

- **Inadequate community consultation regarding this development and inadequate notification of neighbouring residents considering units at 20 Close Street, Canterbury cannot receive local newspapers due to gates prohibiting access to the property.**

Comments

The subject application was advertised in the Council column of local newspapers on three separate occasions. Upon receiving feedback from some residents of 20 Close Street where they requested time to view the plans and make submissions regarding the application, a third advertising period was initiated with specific letters being sent to the residents of apartments within 20 Close Street notifying them of the application and where information associated with the application can be viewed within the extended notification period.

- **Lack of consideration of the NSW Government Urban Renewal Strategy for the Sydenham to Bankstown Metro Corridor.**

Comments

The proposed development has been assessed under the currently applicable State and local level planning controls.

- **Development is unsympathetic to existing development in the area and puts pressure on the open space and river environment, and barely meets environmental sustainability measures.**

Comments

The proposed development replaces a series of industrial buildings with surrounding land uses that are similar to the subject application. Unlike many developments along the river foreshore section of the town centre, the proposed development improves the river foreshore by dedicating land adjoining the foreshore to Council, merging the communal open space with the river foreshore area to enable public access (by way of public right of way), and provides linkages from the river foreshore to the remainder of the town centre with bike racks, ramps and pedestrian access stairs through the ground floor of the development.

The modified development includes an associated BASIX Certificate which demonstrates that the development can achieve energy, water and thermal comfort targets.

- **The development does not contribute to the open space and community facilities in the area to cater for the additional population it will introduce.**

Comments

The development will be subject to the payment of Section 94 contributions which will go towards the provision of open space and community facilities by Council.

- **Increased population as a result of this development will increase impacts of disruptions to train network during metro line upgrade works**

Comments

The number of passengers utilising the rail network at this location will be taken into consideration by the relevant State authority at the time of scheduled works.

- **Concerns regarding the design of the development and potential for the developer to apply to State Government for further density**

Comments

The design of the development has been assessed under the relevant planning controls and has been found to be acceptable and substantially the same as the original development approval with no additional floor area or height on the development. Should the applicant request a further modification that would require substantial modifications under Section 96 (2) of the Environmental Planning and Assessment Act, the application will be determined by the Sydney South Panel as per the subject application.

- **Too many/ too little car parking spaces provided**

Comments

The development meets the minimum car parking requirement under the applicable state and local controls as found in assessment undertaken within this report. It is noted that the proposed development also provides more usable on-street car parking spaces in Close Street with the widening of the street at this section.

- **The local historic value of the suburb should be preserved**

Comments

The subject site is not identified as having any heritage significance, nor is it within a heritage conservation area or within proximity of a heritage item. As such, a heritage related assessment is not required.

- **Increase in graffiti and bill posters as a result of wooden boards erected at subject site and associated potential crime.**

Comments

The determination of this application will enable the dedication of land for the intersection works and the construction of the development, which will ultimately resolve this matter.

- **Capacity of Canterbury Road to cope with increased traffic as a result of cumulative impacts of development along the corridor.**

Comments

The subject application is a modification to a previously approved development and as such, the impact of this application on the Canterbury Road corridor is minimal. However, in the overall scheme of Canterbury Road, Council is reviewing planning controls and the cumulative impact of development on traffic along this corridor.

- **The development does not demonstrate building/design excellence**

The proposed development includes a schedule of finishes which will appear as a condition of consent. The design of the development is considered to be satisfactory.

- **There is a lack of shopping centres in the area and the development retail component of this development should be designed as a podium of 3 storeys with separate towers above the development and should include underground shopping small, restaurants and cinema.**

Comments

Current Council controls do not include a minimum commercial/retail component for the development. It is also noted that the rear portion of the site is zoned R4 – High Density Residential.

- **Water front properties should be retained for public use**

Comments

The subject site is privately owned. The proposed development increases river foreshore areas accessible to the public at this section of the riverfront.

- **Overshadowing of Mary McKillop park and Cooks River**

Comments

The development will not cast a shadow on Mary McKillop Park due to the distance between the two sites. The proposed modifications do not alter the height or overall bulk of the approved development and as such the shadow impacts. It is noted however, that the development has been positioned away from the river foreshore wrapping around the Canterbury Road and Close Street frontages of the site, which reduces the overshadowing of the adjoining park lands. The design is contrary to most similar developments along the river foreshore which have utilised all privately owned components of their sites to bring buildings to the river foreshore.

- **Section 94 Contributions should be used to upgrade Canterbury Aquatic Centre**

Comments

The Section 94 contributions collected will be utilised in accordance with Council's Section 94 Contributions Plan and works identified within.

- **Impact on water and sewer systems**

Comments

The application has been reviewed by Sydney Water and Council's engineers who have raised no objections with regard to the capacity of existing water and sewer infrastructure. The applicant will be required to obtain further approvals from Sydney Water prior to the issue of an Construction Certificate to ensure the current infrastructure is adequate, or work with them for amplification works to be undertaken if necessary.

- **Safety of pedestrians and dogs with increased traffic movement in Close Street**

Comments

The proposed development includes a widening of Close Street, the establishment of a new footpath in Close Street and pedestrian linkages between the river foreshore and surrounding street/road networks which are considered to improve existing pedestrian safety. Our Traffic Engineer has reviewed the proposal and notes that the traffic generation of this development will be concentrated at the northern end of Close Street, while the development will improve pedestrian safety with pedestrian linkages and with the signalisation of the intersection which will also enable a pedestrian crossing across Canterbury Road.

- **Impacts on privacy and solar access of neighbouring residents on the opposite side of Cooks River**

Comments

The site is separated from properties to the south of the river by Cooks River and Mary McKillop Park. Given the considerable distance, the development (as modified) will not have a significant impact on the privacy and solar access to residential properties to the south of the river.

- **Noise impacts from new residents**

Comments

Given the residential nature of the development (as modified), the noise impacts are considered to be acceptable.

- **Displacement of local play group subleasing one of the existing industrial units**

Comments

It is noted that there is no record of Council approval for such a facility and as such we do not have details pertaining to the nature of the 'play group' use. This is a matter between the tenant and property owner and is not a planning matter that needs to be considered as part of the assessment of this application.

The public interest [section 79C(1)(e)]

The proposed development satisfies the relevant requirements contained with various State Environmental Planning Policies, Council's planning instruments and development control plans. The proposal is generally consistent with the requirements of these policies as documented throughout this report. The proposal promotes the coordinated, orderly and economic use of the land and is not expected to have any significant adverse impacts on adjoining development. The development will provide an important landmark building at the southern entrance to the Canterbury Town Centre and will provide an important gateway and interface to the Cooks Riverfront, consistent with the emerging future character envisaged by the planning controls for the locality. Approval of the applicant is therefore considered to be in the greater public interest.

CONCLUSION

The development application has been assessed pursuant to the provisions of Section 79C of the Environmental Planning and Assessment Act, 1979 and all relevant development control plans, code and policies.

The proposed development is permissible in the zone subject to consent under the provisions of Canterbury Local Environmental Plan 2012 (CLEP2012). As demonstrated, the proposed development is generally consistent with the provisions of the relevant State Environmental Planning Policies and Councils development control plans with the exception of the matters discussed in this report.

As outlined throughout this report, the site is capable of accommodating the proposed shop top and residential housing development and is not expected to have any detrimental impacts on the amenity of the locality. In this regard the proposed modification are considered to be a suitable. It is recommended that the development application be approved.

RECOMMENDATION:

THAT Development Consent DA-503/2013 be **MODIFIED** by:

- A. Amending conditions 1, 2, 3, 4, 6, 17, 28, 30, 54, 73, 93, 116, 117 and 118 to read as follows:
 - 1. The development must be carried out in accordance with the plans, specifications and details prepared by Realize Architecture, marked Drawing Plan No. 11.199.S96.100.E, 101.E, 102.G, 103.G, 104.F, 105.G, 106.E, 107.E, 108.E, 109.E, 110.E, 111.E, 112.D, 200.E, 201.E, 300.D, 301.D, 302.D, dated 10 September 2014, except where modified by the apartment details and specific information contained within the document entitled SEPP 65 Apartment Design Guide – Development Summary Table for a Modification to DA 503/2013 pertaining to dwelling sizes, allocation of storage for residential units and identification of adaptable units and except where modified by the conditions of this consent including the following specific conditions:
 - a) The study areas shown on dwelling type 1A and 1B must be open with no enclosing walls to enable sufficient solar access to this area.
 - b) The main bedrooms of Units Types 6H, 7A, 8A and 8B are to be re-designed to be a minimum 10sqm in area.

2. The finishes and materials, including the treatment of external walls, roofing, balcony balustrades, fences, windows and doors must be in accordance with the photomontage and 'Schedule of Finishes', prepared by Realize Architecture, marked Drawing Plan No. 11.199.S96.700.B, dated 10 September 2014. The approved design (including an element or detail of that design) or materials, finish or colours of the building must not be changed so as to affect the external appearance of the building without the approval of Council.
3. The stormwater system must be constructed in accordance with the plans, specifications and details prepared by AJ Whipps Consulting Group Pty Ltd, Project No. 2012/0312, drawing numbers: HDA01/P2, HDA02/P4, HDA03/P6, HDA04/P5 & HDA05/P3, except where amended by the conditions of this consent.
4. The landscaping must be completed according to the submitted landscape plans (drawn by Ochre Landscape Architects, drawing no. no 1417-LC01A to 05A issue 29.11.16 and submitted to council on 29th of November 2016) except where amended by the conditions of consent. The landscaping is to be maintained at all times to the Council's satisfaction. All the tree supply stocks shall comply with the guidance given in the publication Specifying Trees: a guide to assessment of tree quality by Ross Clark (NATSPEC, 2003). The Certifying Authority must ensure that the building plans and specifications submitted, referenced on and accompanying the issued Constructions Certificate fully satisfy the requirements of this condition.
6. Details of the following design changes must be submitted to either Council or an Accredited Certifier prior to the issuing of a Construction Certificate:
 - (a) To ensure the provision of adequate storage for residents:
 - i) all residential units must be allocated a minimum storage area of 4m³ per studio, 6m³ per one bedroom unit, 8m³ per two bedroom unit, and 10m³ per three bedroom unit with at least 50% of the required storage area located within the apartment.
 - ii) Parking facilities/storage for 134 bicycles is to be provided on-site for the development.
 - (b) To mitigate potential privacy impacts for residents, all bathroom, en-suite and laundry windows must have translucent glazing.
17. Prior to the issue of the Construction Certificate, the following details must be submitted to Council for approval:
 - 17.7 The waste bin storage areas are to be designed and constructed in accordance with clause 6.9.4.1 and 6.9.4.2 of the CDCP.
 - 17.8 Unrestricted and unobstructed access to the collection areas must be provided on collection days from 5.00am. The bins must not be presented to the road.
28. The parcel of land to be dedicated to Council along the Cooks River (south western section of the site) must be clear of any structures below or above ground with the exception of public domain elements. The proposed public

artwork and playground structures are to be shown on a detailed plan that must be submitted to Council's City Works Division and to Ausgrid (Asset Protection Officer – Transmission Mains, Level 1, 25-27 Pomeroy Street, Homebush NSW 2140, Ph. 8569 6892) for approval prior to the issue of a Construction Certificate. Please note all structures within the easement area must comply with Ausgrid's ISSC20, or may need to be re-located or deleted.

24. The vehicular access and parking facilities shall be in accordance with Australian Standard AS 2890.1 "Off-street Parking Part 1 - Carparking Facilities". In this regard, the submitted plans must be amended to address the following issues:
- a) The finished levels within the property must be adjusted to ensure that the levels at the boundary comply with those issued by Council for the full width of the vehicle crossing. The longitudinal profile must comply with the Ground Clearance requirements of AS/NZS 2890.1-2004.
 - b) The driveway grades shall be in accordance with Australian Standard AS 2890.1 "Off-street Parking Part 1 - Carparking Facilities".
 - c) Minimum headroom of 2200mm must be provided throughout the access and parking facilities. Minimum headroom of 2500mm must be provided above any disabled parking space(s). Note that the headroom must be measured to the lowest projection from the ceiling, such as lighting fixtures, sprinklers, ducts, etc, and at any open garage door.
 - d) The car parking facilities must be appropriately line marked and signposted in accordance with the requirements of Section 4 of AS/NZS 2890.1-2004.
 - e) The Engineer must certify that the access and parking complies with current Australian Standards including AS/NZS 2890.1-2004 Parking Facilities - Off-Street Car Parking, AS 2890.2-2002 Parking Facilities - Off-Street commercial vehicles facilities, AS/NZS 2890.6-2009 Off-street parking for people with disabilities and AS 2890.3-1993 Parking Facilities - Bicycle parking facilities.
 - f) Sight distance to pedestrians on the footpath shall be shown on the site plan at the vehicular crossing to Close Street on the motorist exit side, in accordance with AS 2890.1-2004 to comply with Fig 3.3. This triangular area is to be kept clear of any obstruction.
 - g) Sight distance to approaching traffic shall be in accordance with Fig 3.2 from AS 2890.1-2004. This may affect the number of on-street parking spaces proposed in Close Street east of the proposed vehicular crossing, as No Stopping signs may be required to ensure adequate sight distance for motorists exiting the development site into Close Street. Such signage will require recommendation at a meeting of the Canterbury Traffic Committee and Council approval, to be installed at the cost of the applicant.

The design must be certified by a suitably qualified Civil Engineer with NER registration with the Institution of Engineers Australia and be provided to the Principal Certifying Authority prior to the issue of a Construction Certificate.

31. To facilitate the proposed future construction of traffic signals and associated civil works on Canterbury Road at Charles and Close Streets, the developer shall dedicate sufficient land as public road at the corner of Close Street and Canterbury Road. The extent of this land dedication as public road shall be in accordance with the survey plan prepared by Mark O Williams (Ref 122489) marked 'Proposed Easement Plan'. This land dedication as public road shall be executed, prior to the release of any Construction Certificate for the proposed development and shall be at no cost to RMS or Council.
55. All development, including walls must be located within the property boundaries of the subject site, except any works on Council land that has obtained the prior approval of Council such as the footpaths and the like.
116. Prior to the occupation of the development an acoustic assessment shall be undertaken to ensure that the recommended treatments and controls contained in the Acoustic Assessment Report prepared by Acoustic Logic (Project No. 20130055.1, Dated: 17 November 2015), submitted with DA503/2013/A, have been incorporated in the final design of the building.
117. A total of four hundred and eighty (480) off-street parking spaces being provided, comprising of:
- One (1) car wash bay being allocated as common property (location as shown on plans);
 - One accessible car space being allocated to each accessible dwelling;
 - A minimum of 162 car spaces in a basement level being allocated to the residential units contained within Buildings 3 and 4 (residential flat building);
 - A minimum of 47 residential visitor spaces being provided on the upper basement level with adequate access provisions;
 - A minimum 133 car spaces in a basement level being allocated to the residential units contained within Buildings 1 and 2 (shop top housing)
 - A minimum of 15 car spaces located at ground level being allocated to the commercial units in Buildings 1 and 2.

The car spaces must be allocated and marked according to this requirement. If the development is strata subdivided, the car park layout must respect the above allocation. All 'small car spaces' must be pavement marked and allocated to studio and/or 1 bedroom apartments.

118. Prior to the issue of an Occupation Certificate, the Principal Certifying Authority must ensure the following have been completed:
- A. The accessible parking spaces comply with the dimensions of AS 2890.1 and have a firm, level surface with minimal crossfall. These spaces must be marked with the international symbol of disability.
 - B. A certificate from a suitably qualified Civil Engineer with NER registration with the Institution of Engineers Australia stating the completed works has been inspected and the access and parking complies with current Australian Standards including AS/NZS 2890.1-

2004 Parking Facilities - Off-Street Car Parking, AS 2890.2-2002
Parking Facilities - Off-Street commercial vehicles facilities, AS/NZS
2890.6-2009 Off-street parking for people with disabilities and AS
2890.3-1993 Parking Facilities - Bicycle parking facilities.

B. The insertion of the following conditions:

- 46A. A dewatering license associated with DA 503/2013 (as modified) must be obtained prior to the issue of a construction certificate.
- 46B A Controlled Activity Approval must be obtained from the NSW Department of Primary Industries prior to the issue of a Construction Certificate.
- 46C. The approved plans must be submitted to the Sydney Water Tap in online service to determine whether the development will affect any Sydney Water sewer or water main, stormwater drains and/or easement, and if further requirements need to be met.

C. The deletion of condition 93.

WE ALSO ADVISE:

- 1. Our decision was made after consideration of the matters listed under Section 79C of the Environmental Planning and Assessment Act 1979, and matters listed in Council's various Codes and Policies.
- 2. If you are not satisfied with this determination, you may:
 - 2.1. Apply for a review of an Application to Modify a Development Consent which may be sought under Section 96AB of the Environmental Planning and Assessment Act 1979 but only within 28 days of the modification determination; or
 - 2.2. Appeal to the Land and Environment Court within 6 months after the date on which you receive this Notice of Determination, under Section 97AA of the Environmental Planning and Assessment Act 1979.
(Sections 97 and 97AA of the Environmental Planning and Assessment Act 1979 does not apply to the determination of a development application for State significant development or local designated development that has been the subject of a Commission of Inquiry.)

